

Charles M. Lizza
William C. Baton
SAUL EWING LLP
One Riverfront Plaza, Suite 1520
Newark, New Jersey 07102
(973) 286-6700

Attorneys for Plaintiff
Sunovion Pharmaceuticals Inc.

Of Counsel:
Joseph M. O'Malley, Jr.
Bruce M. Wexler
Eric W. Dittmann
David M. Conca
Isaac S. Ashkenazi
Jason T. Christiansen
PAUL HASTINGS LLP
75 East 55th St Street
New York, New York 10022
(212) 318-6000

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

SUNOVION PHARMACEUTICALS, INC.,

Plaintiff,

v.

**TEVA PHARMACEUTICALS USA, INC.,
et al.,**

Defendants.

Civil Action No. 09-1302 (SDW)(MF)

**Hon. Susan D. Wigenton, U.S.D.J.
Hon. Mark Falk, U.S.M.J.**

(Filed Electronically)

[PROPOSED] FINAL JUDGMENT

WHEREAS, this action for patent infringement (the “Litigation”) was brought by Plaintiff Sunovion Pharmaceuticals Inc. (“Sunovion”) against Dr. Reddy’s Laboratories, Ltd. and Dr. Reddy’s Laboratories, Inc. (collectively, “Reddy”) for infringement of United States Patent Nos. 6,444,673 (“the ’673 Patent”), 6,319,926, 6,864,257, and 7,381,724 (collectively, the “Sunovion Patents”);

WHEREAS, Sunovion’s commencement of the Litigation was based on its receipt of notice from Reddy that it had filed Abbreviated New Drug Application (“ANDA”) No. 91-024

with the United States Food and Drug Administration (“FDA”) containing a certification pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV) directed to the Sunovion Patents and seeking approval to market generic versions of 1, 2, and 3 mg tablets of eszopiclone;

WHEREAS, Reddy has not received FDA approval for ANDA No. 91-024;

WHEREAS, on January 17, 2013, Judge Cavanaugh issued an Opinion and Order granting Reddy’s Renewed Motion for Summary Judgment of Non-Infringement of the ’673 Patent (the “Non-Infringement Decision”) [D.I. 479; D.I. 480];

WHEREAS, no decision has been obtained by the parties from this Court regarding Reddy’s other defenses and counterclaims, including with respect to the validity of the Sunovion Patents;

WHEREAS, Sunovion and Reddy have agreed to enter into final judgment that will permit Sunovion to immediately appeal (hereinafter, the “Appeal”) the Non-Infringement Decision and all underlying opinions and orders relating thereto, including, without limitation, the Order and Opinion on Claim Construction [D.I. 417; D.I. 418], the Order denying without prejudice Reddy’s Motion for Summary Judgment [D.I. 437], and the Opinion and Order denying Sunovion’s Motion for Reconsideration [D.I. 474; D.I. 475];

WHEREAS, each of Sunovion and Reddy acknowledge there is significant risk to each of them associated with the Non-Infringement Decision and desire to obtain immediate appellate review of that decision;

WHEREAS, to facilitate the Appeal, and to avoid the substantial litigation costs that would otherwise be incurred by both Sunovion and Reddy at a trial on the issue of patent validity, the parties have entered into a settlement with respect to Reddy’s invalidity defenses, and have agreed to stipulate that the ’673 patent is valid and enforceable in the Litigation;

WHEREAS, Sunovion and Reddy have agreed upon, and will jointly request, an expedited schedule for the Appeal;

The Court, upon the consent and request of Sunovion and Reddy, and upon due consideration, issues the following Order.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. Subject matter jurisdiction, personal jurisdiction, and venue are all proper in this Court.

2. In this Litigation, Sunovion has charged Reddy with infringement of the Sunovion Patents in connection with Reddy's submission of ANDA No. 91-024 directed to generic tablets containing 1, 2, and 3 milligrams of eszopiclone per tablet to the FDA.

3. In response to Sunovion's charges of patent infringement, Reddy has alleged certain defenses and counterclaims, including that the Sunovion Patents are not infringed and are invalid.

4. Except for Reddy's defense of non-infringement, Reddy agrees that each of the defenses and counterclaims set forth in its Answer, Affirmative Defenses and Counterclaims, including the allegations and averments contained therein, should be, and are hereby, dismissed with prejudice.

5. Both parties have agreed to withdraw their exceptional case claims, and those claims are hereby dismissed with prejudice.

6. The Court's January 17, 2013 Order granting Reddy's Renewed Motion for Summary Judgment of Non-Infringement of the '673 Patent is hereby made final and judgment of noninfringement is hereby entered in favor of Reddy.

7. This Court retains jurisdiction over Sunovion and Reddy for purposes of enforcing this Final Judgment.

The Clerk of the Court is directed to enter this Final Judgment forthwith.

IT IS SO STIPULATED:

s/ Charles M. Lizza

Charles M. Lizza
William C. Baton
SAUL EWING LLP
One Riverfront Plaza, Suite 1520
Newark, NJ 07102-5426
(973) 286-6700

Attorneys for Plaintiff
Sunovion Pharmaceuticals Inc.

s/ Bruce D. Radin

Andrew J. Miller, Esq.
Bruce D. Radin, Esq.
Frank D. Rodriguez, Esq.
BUDD LARNER, P.C.
150 JFK Parkway
Short Hills, NJ 07078
(973) 379-4800

Attorneys for Defendants
Dr. Reddy's Laboratories, Ltd. and
Dr. Reddy's Laboratories, Inc.

Of Counsel:

Joseph M. O'Malley, Jr.
Bruce M. Wexler
Eric W. Dittmann
David M. Conca
Isaac S. Ashkenazi
Jason T. Christiansen
PAUL HASTINGS LLP
75 East 55th Street
New York, NY 10022
(212) 318-6000

SO ORDERED:

This 10th day of April, 2013

HONORABLE SUSAN D WIGENTON
UNITED STATES DISTRICT JUDGE